IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LIBERTY MUTUAL INSURANCE COMPANY, et al.,	)	
Plaintiffs,	)	
v.	)	**Civil Action No.** 08 CV 7192 (DC) (DFE)
ROBERT H. HURLBUT, et al.,	)	
Defendants.	)	

DECLARATION OF NANCY R. MOORE

I, Nancy R. Moore, declare as follows:

1. I am Vice President and Chief Actuary at Liberty Mutual Insurance Company ("Liberty Mutual") and the manager of Commercial Markets Administration – Actuarial System and Claims Actuarial Groups. I am a Fellow in the Casualty Actuarial Society and a Member of the American Academy of Actuaries. I also have received designations as an Associate in Risk Management and as a Chartered Property Casualty Underwriter.

2. I have extensive experience in the workers' compensation insurance line. For several years I managed Liberty Mutual's workers' compensation actuarial pricing unit. I regularly have served on actuarial committees relating to workers' compensation insurance, including the actuarial committee of the National Council for Compensation Insurance and the American Academy of Actuaries workers' compensation subcommittee. A copy of my *curriculum vitae* is attached.

3. I was asked to assess the aggregate economic impact on Liberty Mutual of the amendments to §§ 27 and 32 of the New York Workers' Compensation Law ("WCL") enacted by the Workers' Compensation Reform Act of 2007 (the "2007 Amendments"). I have assessed the impact both retroactively insofar as the 2007 Amendments apply to claims arising under policies entered into prior to enactment of the Amendments and prospectively insofar as they apply to claims arising under policies entered into subsequent to the Amendments.

4. My analysis quantifies three types of economic effects that the 2007 Amendments will have on Liberty Mutual. First, the amendment to § 32 eliminating Liberty Mutual's right to enter into settlement agreements with claimants – and authorizing only the Aggregate Trust Fund ("ATF") to enter into such agreements – will substantially reduce the number of claims that Liberty Mutual can resolve by settlement. Because settlement agreements substantially reduce Liberty Mutual's payout on claims, the effect will be to significantly increase Liberty Mutual's losses as described below.

5. Second, the amendments to § 32 will substantially increase Liberty Mutual's costs of handling claims. Claims handling costs, also called loss adjustment expenses, are the costs of investigating, settling and paying the claim. The 2007 Amendments expanded the requirement that insurers deposit the net present value of claims in the ATF to include a new category of permanent partial disability claims – so-called "classified" or "non-schedule" claims as described in WCL § 15(3)(w). That extension of the deposit requirement to classified PPDs was a significant expansion since the volume of classified PPD claims is much higher than death/permanent total claims. Once a deposit has been made, the ATF takes over responsibility for handling the claim. It charges a fee for that function, which historically has been 3 percent of the deposited amount. This is more than the amount Liberty Mutual would expend to administer

the same claims. Accordingly, the 2007 Amendments will increase Liberty Mutual's claims handling costs.

6. Third, Liberty Mutual invests the premiums it receives from its policyholders and earns investment income during the time period before claims are paid. Liberty Mutual's rate of return is higher than the current discount rate set by the ATF to determine the present value of deposits, which is 5 percent. Accordingly, the expansion of the deposit requirement will reduce Liberty Mutual's investment earnings below what the company could have earned in the absence of that requirement.

7. The remainder of this declaration describes the methodologies I used to calculate these losses and costs and gives the results of my analysis. Details of the analysis are set forth in Tables 1 through 9 attached hereto.

Increased Losses

8. In the absence of the 2007 Amendments, Liberty Mutual would settle about 20% of classified permanent partial disability ("PPD") claims arising prior to July 1, 2007 and about 30 % of classified PPD claims arising after July 1, 2007. I calculated the settlement rate for pre July 1, 2007 claims based on my review of Liberty Mutual's PPD claims closings resulting from settlements in 2006 and by reference to a study done by the insurance actuarial consultant Tillinghast for the New York Compensation Insurance Rating Bureau, which develops rates for use by workers' compensation insurers. The difference in settlement rates on post July 1, 2007 claims arises because post-July 1, 2007 claims are no longer subject to the Second Injury Fund ("SIF").

9. Where a worker has received compensation for a first workplace injury and then suffers a subsequent injury or where the claimant has treated for a prior injury, Liberty Mutual can seek SIF relief with the SIF reimbursing the insurer for the cost of benefits over and above

260 weeks of benefits. Thus, Liberty Mutual does not settle claims that are reimbursable by the SIF without SIF involvement and agreement on the amount the SIF will contribute to the settlement, one reason it is difficult to settle such claims. However, the 2007 Amendments abolished the SIF effective July 1, 2007. Accordingly, Liberty Mutual is now financially responsible for all benefits payable on these claims and will resolve many of them by settlement.

10. For claims arising from accidents incurred prior to July 1, 2005, I calculated the volume of classified PPD claims that would emerge in the future based on Liberty Mutual's historical claims development patterns and historical ratios of PPD claims to total indemnity claims. For more recent accident years, I multiplied the estimated number of PPD claims by Liberty Mutual's historic ratio of classified claims to total PPD claim to calculate the number of future classified claims that will emerge. I made the conservative assumption that the level of claims would be the same in the future as they are now. Liberty Mutual has averaged about 2100 PPD claims a year over the last two years, of which 22 percent are expected to become classified PPDs.

11. The effective date of the 2007 Amendments is March 13, 2007. The 2007 Amendments thus will apply retroactively to claims arising under policies issued before that date. Most of the retroactive application of the 2007 Amendments is associated with accidents that occurred prior to July 1, 2007 but are classified post July 1, 2007, and I calculated that the volume of these classified PPD claims is1340 claims. See Table 3. Prospective application of the 2007 Amendments will apply mainly to accidents occurring on or after July 1, 2007, and about 439 classified PPD claims are expected annually from those accidents.. See Table 7.

12. The deposit requirement is triggered when the Workers' Compensation Board ("WCB") makes an award of compensation for a claim made by an injured worker. On average,

it takes approximately five years from the date of injury for the WCB to make an award. This five year delay is documented in a report made by the Superintendent of Insurance to the Governor in March, 2008. The reason for the long delay is that an award cannot be made until two years after the date of injury or one year after the injured worker's last surgery, whichever is later. Additionally, occupational diseases and latent injuries may not manifest themselves for many years after the insurance policy is issued. Also, injuries may worsen over time or be exacerbated by a later event and thus become classified PPD claims long after the initial injury occurred. Additionally, in cases where claims are disputed, an award by the WCB may not be made for many years.

13. In calculating the volume of PPD claims that potentially could be resolved by settlement, I applied a reduction of 35% for pre-July 1, 2007 claims to exclude those claims for which Liberty Mutual receives reimbursement from the Second Injury Fund or a third party. I calculated the amount of the reduction based on a review of PPD claims for which Liberty Mutual had obtained such reimbursement. SIF reimbursement is explained above. I applied a reduction of 5% for post-July 1, 2007 claims. This lower ratio is used because the SIF no longer provides reimbursement after that date so it is only classified PPD claims involving a third party that will not be subject to deposits with the ATF. Third party reimbursement occurs where someone other than the employer caused or contributed to the injured worker's accident, such as a contractor on the employer's premises. The injured worker or the insurer can then bring a tort action against that third party. The insurer becomes subrogated to the worker's claim when it pays benefits to that worker.

14. Settlements average approximately 75 percent of the net present value of the award to be deposited with the ATF for pre-July 1, 2007 claims. Settlements will average 83%

of the net present value of awards to be deposited with the ATF on post-July 1, 2007 claims. Claimants will settle for less than the full value of the award in order to get a lump sum payment, rather than compensation on a bi-weekly basis stretched out over many years, and also so that they will not lose their benefits if they take on a new job at the same or higher wage. I calculated the settlement amount based on the average weekly compensation rate for non-schedule PPD claims and the average age at settlement. I consulting experienced Liberty Mutual claims managers. I found that claimants will accept lump-sum settlements priced at an 8% discount rate from present value. My numbers are consistent with those used by Tillinghast in its study for the New York Compensation Insurance Rating Bureau. See Table 3 (pre-July 1, 2007 claims) and Table 7 (post-July 1, 2007 claims).

15. The ratio of settlement value to the loss amount deposited with the ATF increases for post-July 1, 2007 claims because the 2007 Amendments limited the time period for payment of benefits to 4-10 years; previously, payment was made over the entire remaining life of the claimant. The shorter time period for payments means less of an adjustment is made to account for the time value of money and hence higher ratios result.

16. I calculated the average amount of savings resulting from settlements as follows. Based on my review of historical claims experience on accidents happening in 1993 and subsequently, I used $300 as the average weekly compensation rate and the age of 45 for the average age at the time of the accident. As noted above, for claims made before July 1, 2007, benefits must be paid for the entire remaining life of the claimant. For life expectancy, I used 1999 United States life mortality tables because this is what the New York Compensation Insurance Rating Bureau uses. As noted above, after July 1, 2007, benefits for classified PPDs must be paid over periods ranging from four to ten years.

17. I then calculated the total amount of lost savings by multiplying the average savings per claim by the number of classified PPD claims that would have settled if the 2007 Amendments had not eliminated Liberty Mutual's right to settle. For claims affected by retroactive application of the 2007 Amendments, total lost savings are $13.75 million when discounted to present value. See Tables 1-3 and 6. For claims affected by prospective application of the 2007 Amendments, lost savings are over $1.1 million annually. See Tables1, 2, 6, and 7.

Increased Claims Handling Costs

18. Historically, the ATF has charged a fee of three percent of reserves for the claims that it administers. I have assumed that the ATF will charge the same fee for classified PPD claims that it administers under the 2007 Amendments. To calculate total fees I multiplied this percentage by the total volume of classified PPD claims that will emerge in the future as described above. See Tables 4 and 8.

19. To determine Liberty Mutual's average claims handling cost associated with making bi-weekly payments to claimants and monitoring the ongoing need for these payments, I consulted with people involved in our claims operation knowledgeable on these transactional costs.. These costs will be eliminated on classified claims that would not have otherwise settled since the ATF will take over the payment of indemnity benefits on these claims. Liberty Mutual spends a present value of about $1700 per claim to handle pre-July 1, 2007 claims and about $525 per claim to handle post-July 1, 2007 claims. The cost decreases post July 1, 2007 because benefits for post-July 1, 2007 awards are paid out over four to ten years, rather than the claimant's lifespan, and are thus less costly to administer. To calculate Liberty Mutual's total handling costs for classified PPD claims, I multiplied the cost per claim by the total volume of classified PPD claims that would not have otherwise settled. See Tables 4 and 8.

20. I then determined the total amount of additional claims handling costs that Liberty Mutual would incur because of the 2007 Amendments as follows. I took the total fees to be paid to the ATF and subtracted the costs that Liberty Mutual would save if the ATF handled the claim instead of Liberty Mutual. See Tables 4 and 8.

21. The total additional claims handling costs Liberty Mutual will incur because of retroactive application of the 2007 Amendments is $6.73 million when discounted to present value. See Table 1. The total additional claims costs Liberty Mutual will incur because of prospective application of the 2007 Amendments is over $1 million annually. See Table 8.

Reduced Investment Earnings

22. In effect, the ATF's discount rate of 5 percent is what Liberty Mutual "earns" on its deposits with the ATF. I determined Liberty Mutual's lost investment income by comparing the ATF discount rate with Liberty Mutual's rate of return on its investment of workers' compensation insurance premiums.

23. Liberty Mutual's Investment Department releases a "new money" rate each month that reflects the yield that Liberty will earn on recently-received premiums to be invested over an average of 5-10 years. The current "new money" rate is 5.46 percent.

24. The difference in the present value of a lifetime PPD claim at the ATF's five percent rate versus Liberty Mutual's 5.46 percent rate is $10,469 per claim, using average claim size and 1999 US life mortality rates. Applying that to the total volume of classified PPD claims retroactively made subject to the ATF results in $12.88 million of total lost investment earnings when discounted to present value. See Tables 1 and 5.

25. As noted above, for claims occurring after July 1, 2007, benefits are paid out over four to ten years. The difference in the present value of a seven year investment at a five percent rate versus 5.46 percent rate is $1709 per claim, using the 2008 average claim size. Applying

that to the total volume of classified PPD claims prospectively made subject to the deposit requirement results in over $620,000 of total lost investment earnings annually. See Table 9.

Aggregate Impact

26. The total cost to Liberty Mutual of the retroactive application of the 2007 Amendments to claims arising under policies entered into prior to enactment of the Amendments is $33.37 million when discounted to present value. See Table 1.

27. The total cost to Liberty Mutual of the prospective application of the 2007 Amendments to claims arising under policies entered into subsequent to enactment of the Amendments is over $2.8 million annually. The present value of the total prospective harm to Liberty Mutual is $122.5 million. See Table 1.

Other Costs

28. The 2007 Amendments impose other costs on Liberty Mutual that are difficult or impossible to quantify.

29. Liberty Mutual will bear additional claims handling costs incurred because of the need to coordinate with the ATF. For example, § 32 of the WCL requires Liberty Mutual to provide claims information requested by the ATF.

30. The expanded deposit requirement applies to indemnity benefits but not medical benefits. Thus, the ATF will have sole authority to settle indemnity claims whereas Liberty Mutual will retain the authority to settle medical claims. Liberty Mutual will incur additional costs because of the need to coordinate settlements of classified PPD claims with the ATF.

31. In addition, Liberty Mutual's medical claims costs may increase because of the bifurcation in responsibility for handling indemnity and medical claims. Liberty Mutual's inability to enter into a package settlement of all claims might cause claimants to be less willing

to settle the medical claim or to settle at a reasonable amount. Because it is impossible to predict the precise size of this effect, this element of damages cannot be quantified as well.

32. Liberty Mutual is also likely to incur increased litigation costs as a result of the 2007 Amendments. Because Liberty no longer can settle classified PPD claims once a deposit has been made, it is more likely to litigate disputed claims. Again, there is no way to quantify the precise increase.

33. Most importantly, for the reasons explained in the Declaration of David Dwortz, the 2007 Amendments will result in loss of customers and harm to Liberty Mutual's reputation with its policyholders. It would be impossible to quantify these injuries with any precision.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

August 1, 2008

Nancy R Moore

Nancy R. Moore

Nancy R. Treitel, FCAS, MAAA, ARM, CPCU

Nancy Treitel is a Vice President and Chief Actuary at Liberty Mutual, where she is the manager of Commercial Markets Administration - Actuarial Systems and Claims Actuarial groups. Primary responsibilities include actuarial information systems, supporting Liberty Mutual's Commercial Professional Services (Claims, Managed Care, and Loss Prevention), special projects, and actuarial support for Liberty's industry activities. She also provides actuarial oversight to LM Property and Specialty lines operations.

Most of Ms. Treitel's 26 years of experience at Liberty Mutual have been in Commercial Lines with an emphasis on workers compensation. Her prior responsibilities have included providing actuarial support to the Commercial Markets - Claims, Managed Care and Loss Prevention departments at Liberty, providing actuarial support to LM Property, LM Surety, and our Captive Operations, managing the Commercial Actuarial Financial Reporting and Research and Development units, and managing Liberty's Workers' Compensation (WC) actuarial pricing unit. In these varied capacities, she has provided technical expertise in a broad range of areas including assessing the impact of new programs, developing and implementing new products, evaluating cost and price drivers, analyzing profitability of various books of business, analyzing reforms when major changes occur in states, evaluating reserve levels, and booking reserves each month. Ms. Treitel also represents or has represented Liberty Mutual on a number of industry committees, including the NCCI's actuarial committee, the National Reinsurance Pool Actuarial Committee, ISO's Commercial Lines Panel, and the American Academy of Actuaries Workers Compensation Subcommittee.

Nancy received a Bachelor of Science degree in 1982 from the University of New Hampshire, graduating *summa cum laude*, with a major in Mathematics with an Economics concentration and minors in German and Business Administration. She has been a Fellow in the Casualty Actuarial Society and a Member of the American Academy of Actuaries since 1986. She obtained her designation as an Associate in Risk Management in 1994 and received her designation as a Chartered Property Casualty Underwriter in 1997.

Nancy's professional activities include:

- Frequent panelist at Casualty Actuarial Society Ratemaking Seminar, Special Interest Seminars, and Loss Reserve Seminar on topics including Current Issues in Workers Compensation, Managed Care and Workers Compensation Ratemaking, Excess Workers Compensation, and the Workers Compensation Involuntary Market. 1990, 1995-2005.
- American Academy of Actuaries Workers' Compensation Subcommittee member, 1994, 1999 – present. Chair from 8/99 - 2002. During tenure as chair, committee published a monograph on "The Workers Compensation System: An Analysis Of Past, Present & Potential Future Crises", issued a brief on "Medical Privacy in the Workers' Compensation System", developed guidelines on use of multiple statistical agents, commented on backstop for terrorism-related WC losses, and commented on a variety of other WC issues.
- American Academy of Actuarial Committee on Property and Liability Financial Reporting - 2008
- Casualty Actuarial Society Health and Managed Care Issues Committee, member 1999-2001
- Co-author of the "Benefits and Challenges of Provider Profiling in Workers Compensation" by Nancy Treitel, Miriam Perkins, and Dr. Barton Margoshes, presented at the CAS Seminar on Health and Managed Care Issues, October, 1999.
- Casualty Actuarial Society Examination Committee member, 1987-1993

August 12, 2008

Table 1

TABLE 1
New York Aggregate Trust Fund

Summary of Quantified Damages

Policies Effective Prior to 3/13/2007

	Accidents Pre 7/1/07		Acc Yr Ending June 2008		Combined Acc Yrs	
	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08
Increased Loss	$14,686,654	$13,390,773	$ 439,518	$ 365,458	$15,126,172	$13,756,231
Increased Claims Handling Costs	$7,031,970	$6,411,447	$ 385,910	$ 320,883	$ 7,417,881	$ 6,732,330
Reduced Investment Earnings	$13,904,271	$12,677,460	$ 240,022	$ 199,577	$14,144,293	$12,877,038
Total	$35,622,895	$32,479,680	$ 1,065,451	$ 885,918	$36,688,346	$33,365,599

Policies Effective Post 3/13/2007

	Accidents Pre 7/1/07		Acc Yr Ending June 2008		Acc Yr Ending June 2009		Acc Yr Ending June 2010		Combined Acc Yrs	
	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08
Increased Loss	$129,406	$113,475	$ 933,976	$ 776,598	$ 1,469,639	$ 1,158,733	$ 1,572,514	$ 1,175,653	$ 4,105,534	$ 3,224,459
Increased Claims Handling Costs	$60,342	$52,914	$ 820,060	$ 681,877	$ 1,301,670	$ 1,026,298	$ 1,404,070	$ 1,107,035	$ 3,586,142	$ 2,868,124
Reduced Investment Earnings	$123,550	$108,340	$ 510,047	$ 424,102	$ 802,574	$ 632,787	$ 858,754	$ 642,027	$ 2,294,924	$ 1,807,257
Total	$313,297	$274,729	$ 2,264,083	$ 1,882,577	$ 3,573,883	$ 2,817,818	$ 3,835,337	$ 2,924,715	$ 9,986,601	$ 7,899,839

Accident Years Post 7/2007
Into Perpetuity

(1) annual wage inflation =	3.00%	
(2) interest rate for discounting =	5.46%	
(3)=[(1+(2))/(1+(1))] - 1 Net interest rate for discounting	2.39%	
(4)=1/(3) Perpetuity factor	41.870	
	(5) Annual PV of damages for 2010	(6)=(4)*(5) Perpetuity of Damages Post 7/2010
Increased Loss	$ 1,175,653	$ 49,224,502
Increased Claims Handling Costs	$ 1,107,035	$ 46,351,450
Reduced Investment Earnings	$ 642,027	$ 26,881,637
	$ 2,924,715	$ 122,457,589

Table 2

TABLE 2
New York Aggregate Trust Fund
Summary of Damages Caused by Retroactive Application

	All Acc Years Pre 7/1/07		All Acc Years Pre 7/1/07 on Policies Effective Pre 3/13/2007		Acc Yr - 12 Mth Ending June 2007		Portion of Acc Yr Ending June 2007 from Policies Post 3/13/2007 3.6%	
	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08	Nomical Damages	Damages - PV at 9/1/08
Increased Loss	$14,816,059	$13,504,249	$14,686,654	$13,390,773	$3,594,600	$3,152,091	$129,406	$113,475
Increased Claims Handling Costs	$7,092,313	$6,464,361	$7,031,970	$6,411,447	$1,676,175	$1,469,831	$60,342	$52,914
Reduced Investment Earnings	$14,027,820	$12,785,800	$13,904,271	$12,677,460	$3,431,931	$3,009,446	$123,550	$108,340
Total	$35,936,192	$32,754,410	$35,622,895	$32,479,680	$8,702,706	$7,631,368	$313,297	$274,729

Disc Factor - 12 Mth Ending June 07 0.877

Notes:
Table covers the damages associated with accidents that happened prior to 7/1/2007. The majority of those damages are related to policies effective prior to 3/13/2007 ("retrospective") but a small portion of the pre 7/1/2007 claims (3.6% of the accident year ending June 2007) is "prospective"
Settlement Value Based on Present Value of Life Annuity at Discount Rate = 8.0%
% of Claims that would have settled that no longer do= 20%
Reduced Investment Earnings Based on Present Value of Life Annuity at Discount Rate = 5.46% instead of 5% used in ATF Pricing

Table 3

TABLE 3
New York Aggregate Trust Fund
Calculation of Increased Losses Caused by Retroactive Application

	(1) @7/1/08	(2)	(3) @7/1/07	(4)	(5)=(4)/(2)	(6)=(4)-(3)	(7)	(8)	(9)=(6)*(7)*(8)	(10)	(11)	(12)	(13)=(11)*(12)	(14)	(15)=(11)*(14)	(16)=(13)-(15)	(17)=(9)* 20%	(18)=(16)*(17)	(19)=(18)* 0.911
Acc Yr - 12 mth end June	Reported Indem Cnts	Ultimate Indem Cnts	Reported PPD Claim Cnts	Est Ult PPD Clm Cnts	Est Ult PPD to Indem Cnts	Future PPD Clms to Emerge	%of Emerging PPD that are Non Scheduled	% Subject to ATF (no SIF, no3rdparty)	Number PPD claims sub to ATF	Claimant's Age at time of ATF	Avg Ann'l Comp Rate	PV of life annuity at 5%	PV of Reserve (ATF Price)	PV of Life Annuity at 8.0%	Settlement Value (Based on PV	Increased Loss Differential	Number of Claims No Longer Settling	Increased Loss on Claims that would have settled	Increased Loss Discounted to 9/1/2008
1993	7,784	7,784	3,064	3,079	40%	15	100%	65%	10	64	$15,600	11.317	$176,540	9.012	$140,593	$35,947	2	$71,894	
1994	7,957	7,958	2,979	2,992	38%	13	100%	65%	8	63	$15,600	11.598	$180,934	9.186	$143,301	$37,633	2	$75,267	
1995	7,224	7,225	2,697	2,715	38%	18	100%	65%	12	62	$15,600	11.876	$185,273	9.355	$145,938	$39,335	2	$78,669	
1996	7,321	7,322	2,503	2,519	34%	16	100%	65%	10	61	$15,600	12.151	$189,552	9.519	$148,503	$41,048	2	$82,096	
1997	7,727	7,728	2,555	2,577	33%	22	100%	65%	14	60	$15,600	12.421	$193,765	9.679	$150,994	$42,771	3	$128,314	
1998	7,938	7,939	2,806	2,850	36%	44	100%	65%	29	59	$15,600	12.686	$197,903	9.834	$153,404	$44,499	6	$266,994	
1999	8,063	8,064	2,639	2,695	33%	56	100%	65%	36	58	$15,600	12.946	$201,960	9.983	$155,732	$46,229	7	$323,600	
2000	7,411	7,412	2,574	2,639	36%	65	100%	65%	42	57	$15,600	13.201	$205,941	10.127	$157,982	$47,959	8	$383,671	
2001	6,890	6,893	2,484	2,567	37%	83	100%	65%	54	56	$15,600	13.452	$209,853	10.267	$160,163	$49,689	11	$546,584	
2002	6,522	6,536	2,436	2,536	39%	100	100%	65%	65	55	$15,600	13.698	$213,693	10.402	$162,275	$51,418	13	$668,439	
2003	6,188	6,211	2,174	2,304	37%	130	100%	65%	85	54	$15,600	13.940	$217,459	10.533	$164,316	$53,143	17	$903,433	
2004	5,916	5,962	2,030	2,227	37%	197	100%	65%	128	53	$15,600	14.175	$221,138	10.659	$166,279	$54,859	26	$1,426,322	
2005	5,531	5,602	1,846	2,224	40%	378	100%	65%	246	52	$15,600	14.405	$224,720	10.779	$168,159	$56,560	49	$2,771,460	
2006	5,422	5,542	1,460	2,106	38%	646	72%	65%	301	51	$15,600	14.628	$228,200	10.895	$169,954	$58,245	60	$3,494,715	
2007	5,264	5,516	389	2,096	38%	1,707	27%	65%	300	50	$15,600	14.845	$231,575	11.004	$171,665	$59,910	60	$3,594,600	
	103,158	103,694	34,636	38,126	37%	3,490			1,340			14.215	$221,759	10.671	$166,465	$55,294	268	$14,816,059	$13,504,249
															75%				

Notes:
Table covers the damages associated with accidents that happened prior to 7/1/2007. The majority of those damages are related to policies effective prior to 3/13/2007 ("retrospective")
but a small portion of the pre 7/1/2007 claims (3.6% of the accident year ending June 2007) is "prospective"
Col (1) from Liberty Mutual IWE Database (Liberty & Wausau Cos) and Rx RAM database (Agency Market Cos)
Col (2) - based on historical loss development patterns and actuarial judgment
Col (3) from Liberty Mutual IWE Database (Liberty & Wausau Cos); For Agency Mkt Cos, based on estimated 35% Indem Clms being PPD and Liberty Mutual development patterns.
Col (4) - for Liberty Mutual Companies, based on historical loss dev for 2004 and prior. For 12 mth end June 2006, 2007 based on average ult PPD to Indem ratio for acc yrs 2003-2005 * Ult Indem Cnt;
For Agency Mkt Cos, based on Indem Cnts * assumed ratio of PPD to Indem Cnts of 35%.
Col (7) - For 2006 and 2007, assume 22% of ult PPD cnts are non scheduled and convert to % of emerging claims (=22%*(4)/(6)). 22% based on Liberty Mutual split of claims w/ sched vs nonsched PPD payments for accyrs 1997-2003
For prior acc yrs, assume 100% of emerged still open. (Board awards made 2 years after accident or 1 yr after last surgery, whichever is later).
Col (8) - Assume 35% of claims involve 2nd injury fund or 3rd party so not subject to ATF (based on discussion with Claims and review of Liberty Mutual Open Clms with SIF refunds)
Col (10) based on age at time of accident 45 plus 5 years for average date that claimant gets classified. Avg age at time of accident based on review of Liberty Mutual data.
Avg time to get classified based on March 2008 Report to Governor from Superintendent of Insurance and on review of Liberty PPD claim emergence patterns
Col (11) selected based on avg weekly wage capped at $400 on NY indem claims for acc yrs 1993 and subsequent from IWE * 52 weeks
Selected Avg Weekly Comp Rate = 300
Col (12): PV of life annuity using 5.0% discount rate; 1999 US Life Table. 5% is rate NY announced would be used for pricing ATF claims. 1999 US Life Tables are used by the NYWCRIB in its published pension tables used for reserving lifetime WC claims.
Col (14) - PV of life annuity using 8.0% discount rate; 1999 US Life Table. Assumes settlements priced using this higher rate. Rate based on discussion with Claims and review of assumptions in Towers Perrin Tillinghast study
Note: From Towers Perrin Tillinghast 5/22/07 2007 WC Reform Bill Review - Actuarial Meeting Followup to NYCIRB
Settlement as % of Normal Life Expectancy *Annual Comp Rate = 40%. The Avg PV at 8% is 39% of Avg Life Expectancy so in line with Towers Perrin work
Col (17) - From Towers Perrin Tillinghast 5/22/07 2007 WC Reform Bill Review - Actuarial Meeting Followup to NYCIRB
% of Claims settled = 20%
Col (19) - Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns by calendar period for all accident years combined

Table 4

TABLE 4
New York Aggregate Trust Fund
Calculation of Increased Claims Handling Costs Caused by Retroactive Application

	(1a)	(2a)	(3a) 3%	(4a) = (1a)*(3a)	(5a)	(6a) = ((1a)-(5a))* ($1,700)	(7a) = (4a)+(6a)	(8a)=(7a)* 0.911
Acc Yr · 12 mth end June	Number PPD claims sub to ATF	PV of Reserve (ATF Price)	ATF Fee	Added Fees on all PPD clms	Number of Claims No Longer Settling	Offset for Reduced ULAE on Clms Not Settling	Increased Claims Handling Costs	Increased Claims Handling Costs Discounted to 9/1/2008
1993	10	$176,540	$5,296	$52,962	2	($13,600)	$39,362	
1994	8	$180,934	$5,428	$43,424	2	($10,200)	$33,224	
1995	12	$185,273	$5,558	$66,698	2	($17,000)	$49,698	
1996	10	$189,552	$5,687	$56,865	2	($13,600)	$43,265	
1997	14	$193,765	$5,813	$81,381	3	($18,700)	$62,681	
1998	29	$197,903	$5,937	$172,176	6	($39,100)	$133,076	
1999	36	$201,960	$6,059	$218,117	7	($49,300)	$168,817	
2000	42	$205,941	$6,178	$259,486	8	($57,800)	$201,686	
2001	54	$209,853	$6,296	$339,962	11	($73,100)	$266,862	
2002	65	$213,693	$6,411	$416,702	13	($88,400)	$328,302	
2003	85	$217,459	$6,524	$554,521	17	($115,600)	$438,921	
2004	128	$221,138	$6,634	$849,169	26	($173,400)	$675,769	
2005	246	$224,720	$6,742	$1,658,430	49	($334,900)	$1,323,530	
2006	301	$228,200	$6,846	$2,060,644	60	($409,700)	$1,650,944	
2007	300	$231,575	$6,947	$2,084,175	60	($408,000)	$1,676,175	
	1,340	$221,759	$6,653	$8,914,713	268	($1,822,400)	$7,092,313	$6,464,361

Notes:
Table covers the damages associated with accidents that happened prior to 7/1/2007. The majority of those damages are related to policies effective prior to 3/13/2007 ("retrospective") but a small portion of the pre 7/1/2007 claims (3.6% of the accident year ending June 2007) is "prospective"
Scenario: % of Claims that would have settled that no longer do= 20%
Col (1a) = col (9) from TABLE 3
Col (2a)= col (13) from TABLE 3
Col (3a)= estimated fee ATF will charge for taking over Claims handling. Based on discussion with Claims and fee they had seen historically charged on ATF claims
Col (5a) = col (17) from TABLE 3
Col (6a) = Offset per claim based on estimated savings to Liberty Mutual from no longer cutting biweekly checks to claimants and no longer reviewing indemnity portion of claim and authorizing release of payments
Col (8a) - Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns by calendar period for all accident years combined

Table 5

TABLE 5
New York Aggregate Trust Fund
Calculation of Lost Investment Earnings Caused by Retroactive Application

Acc Yr - 12 mth end June	(1b) Number PPD claims sub to ATF	(2b) PV of Reserve (ATF Price)	(3b) Claimant's Age at time of ATF	(4b) Avg Ann'l Comp Rate	(5b) PV of life annuity @ 5.46%	(6b) = (4b)*(5b) Price Per Claim Using 5.46%	(7b) = (2b)-(6b) Reduced Investment Earnings Per Claim	(8b) = (7b)*(1b) Reduced Investment Earnings	(9b)=(8b)* 0.911 Reduced Investment Earnings Discounted to 9/1/2008
1993	10	$176,540	64	$15,600	10.898	$170,015	$6,525	$65,251	
1994	8	$180,934	63	$15,600	11.159	$174,077	$6,857	$54,855	
1995	12	$185,273	62	$15,600	11.415	$178,079	$7,194	$86,325	
1996	10	$189,552	61	$15,600	11.668	$182,016	$7,535	$75,351	
1997	14	$193,765	60	$15,600	11.916	$185,885	$7,881	$110,328	
1998	29	$197,903	59	$15,600	12.159	$189,674	$8,229	$238,647	
1999	36	$201,960	58	$15,600	12.396	$193,380	$8,580	$308,896	
2000	42	$205,941	57	$15,600	12.629	$197,007	$8,934	$375,231	
2001	54	$209,853	56	$15,600	12.857	$200,563	$9,290	$501,660	
2002	65	$213,693	55	$15,600	13.080	$204,046	$9,648	$627,108	
2003	85	$217,459	54	$15,600	13.298	$207,452	$10,007	$850,596	
2004	128	$221,138	53	$15,600	13.511	$210,771	$10,367	$1,326,926	
2005	246	$224,720	52	$15,600	13.718	$213,994	$10,726	$2,638,531	
2006	301	$228,200	51	$15,600	13.918	$217,116	$11,084	$3,336,186	
2007	300	$231,575	50	$15,600	14.111	$220,135	$11,440	$3,431,931	
	1,340	$221,759		$15,600	13.544	$211,290	$10,469	$14,027,820	$12,785,800

Notes:
Table covers the damages associated with accidents that happened prior to 7/1/2007. The majority of those damages are related to policies effective prior to 3/13/2007 ("retrospective") but a small portion of the pre 7/1/2007 claims (3.6% of the accident year ending June 2007) is "prospective"
Col (1b) = col (9) from TABLE 3
Col (2b)= col (13) from TABLE 3
Col (3b)= col (10) from TABLE 3
Col (4b)= col (11) from TABLE 3
Col (5b): PV of life annuity using 5.46% discount rate; 1999 US Life Table; Discount rate based on benchmark new money rate for Liberty at 6/30/2008
Col (9b) - Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns by calendar period for all accident years combined

Table 6

TABLE 6
New York Aggregate Trust Fund
Summary of Damages Caused by Prospective Application

	12 mth ending June 2008	12 mth ending June 2009	12 mth ending June 2010
Nominal Damages			
Years of Benefits	7	7	7
Increased Loss	$ 1,373,494	$ 1,469,639	$ 1,572,514
Increased Claims Handling Costs	$ 1,205,970	$ 1,301,670	$ 1,404,070
Reduced Investment Earnings	$ 750,069	$ 802,574	$ 858,754
Total	$3,329,534	$3,573,883	$3,835,337
Damages - PV at 9/1/08			
Years of Benefits	7	7	7
Increased Loss	$ 1,142,055	$ 1,158,733	$ 1,175,653
Increased Claims Handling Costs	$ 1,002,760	$ 1,026,298	$ 1,107,035
Reduced Investment Earnings	$ 623,680	$ 632,787	$ 642,027
Total	$2,768,495	$2,817,818	$2,924,715

	12 Mths Ending June 2008 from Policies Effective Pre 3/13/2007 **	12 Mths Ending June 2008 from Policies Effective Post 3/13/2007
Nominal Damages		
Years of Benefits	7	7
Increased Loss	$ 439,518	$ 933,976
Increased Claims Handling Costs	$ 385,910	$ 820,060
Reduced Investment Earnings	$ 240,022	$ 510,047
Total	$1,065,451	$2,264,083
Damages - PV at 9/1/08		
Years of Benefits	7	7
Increased Loss	$ 365,458	$ 776,598
Increased Claims Handling Costs	$ 320,883	$ 681,877
Reduced Investment Earnings	$ 199,577	$ 424,102
Total	$885,918	$1,882,577

** % of damages from Policies Effective Pre 3/13/2007 from accidents incd in 12 mths ending June 2008 = 32%

Notes:
Table covers the damages associated with accidents that happened on or after 7/1/2007. The majority of those damages are related to policies effective on or after 3 but 32% of the accident year ending June 2008 is associated with policies effective prior to 3/13/2007 ("Retrospective")
Settlement Value Based on Present Value of 7 Years at Discount Rate = 8.0%
% of Claims that would have settled that no longer do= 30%
Reduced Investment Earnings Based on Present Value of 7 Year Annuity at Discount Rate = 5.46% instead of 5% used in ATF Pricing

C:\temp\NY PPD costs 07252008 estv2.xls LM Est ATF post 0707 30% 7yr

Table 7

TABLE 7
New York Aggregate Trust Fund
Calculation of Increased Losses Caused by Prospective Application

	Baseline	12 Mths Ending June 2008	12 Mths Ending June 2009	12 Mths Ending June 2010
(1) Estimated Ultimate PPD Counts	2,100			
(2) % NonScheduled	22%			
(3) % Subject to ATF	95%			
(4)=(1)*(2)*(3) Non Schedule PPD Cnts subject to ATF	439			
(5) % of Claims No Longer Settling	30%			
(6)=(4)*(5) Number of Claims No Longer Settling	132			
(7)=(7)pr yr *(1.0+(8)) Average Annual Comp Rate	15,600	17,940	19,196	20,540
(8) % Chg in Avg Annual Comp Rate		15%	7%	7%
(9) Years of Benefits		7	7	7
(10)) Net Present Value at ATF Price using Disc Rate =	5.00%	$ 103,808	$ 111,074	$ 118,849
(11) Settlement Value = Net Present Value using Disc Rate =	8.00%	$ 93,402	$ 99,940	$ 106,936
(12)=(10)-(11) Loss Differential		$ 10,405	$ 11,134	$ 11,913
(13)=(12)*(6) Increased Loss on Claims That Would Have Settled		$ 1,373,494	$ 1,469,639	$ 1,572,514
(14) Acc Yr Discount Factor to 9/1/08 using disc rate =5.46%	0.877	0.831	0.788	0.748
(15)=(13)*(14) Increased Loss Discounted to 9/1/2008		$ 1,142,055	$ 1,158,733	$ 1,175,653

Notes:
Table covers the damages associated with accidents that happened on or after 7/1/2007. The majority of those damages are related to policies effective on or after 3
but 32% of the accident year ending June 2008 is associated with policies effective prior to 3/13/2007 ("Retrospective")
(1) = based on historical volume of PPD claims
(2) = based on Liberty Mutual split of claims w/ scheduled vs nonscheduled PPD payments for accyrs 1997-2003
(3) = assumed 5% of claims involve 3rd party recoveries (note: Second Injury Fund eliminated for accidents on or after 7/1/2007)
(5) = based on discussion with Claims personnel. Note: elimination of 2nd injury fund increases % of claims likely to settle.
Assumed an additional 10 % of claims would settled (about 1/3 of claims previously subject to the 2nd injury fund)
(7) = Avg Comp Rate pre 7/1/07 estimated at $300 per week.
(8) = Increase based on estimated impact of increase in maximum comp rate due to 7/1/2007
(9) = benefits range from 225 to 525 weeks. Assuming uniform distribution of awards by impairment rating, average is about 7 years
(10) and (11) = Net Present Value based on Average Annual Comp Rate, Years of Benefits, and Discount Rate
8% Discount rate based on discussion with Claims regarding discount rate used in pricing settlements.
(14) = Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns for acc yr ending June 2007

Table 8

TABLE 8
New York Aggregate Trust Fund
Calculation of Increased Claims Handling Costs Caused by Prospective Application

		Baseline	12 Mths Ending June 2008	12 Mths Ending June 2009	12 Mths Ending June 2010
(1a)	Number PPD claims sub to ATF	439			
(2a)	Number of Claims No Longer Settling	132			
(3a)	Years of Benefits		7	7	7
(4a)	Net Present Value at ATF Price using Disc Rate =	5.00%	$ 103,808	$ 111,074	$ 118,849
(5a)=(4a)*3.0%	ATF Fee	3.00%	$ 3,114	$ 3,332	$ 3,565
(6a)=(5a)*(1a)	Added Fees on all PPD clms		$ 1,367,145	$ 1,462,845	$ 1,565,245
(7a)	ULAE Per Claim		$ (525)	$ (525)	$ (525)
(8a)=(7a)*((1a)-(2a))	Offset for Reduced ULAE on Clms Not Settling		$ (161,175)	$ (161,175)	$ (161,175)
(9a)=(6a)+(7a)	Increased Claims Handling Costs		$ 1,205,970	$ 1,301,670	$ 1,404,070
(10a)	Acc Yr Discount Factor to 9/1/08 using disc rate =5.46%	0.877	0.831	0.788	0.788
(11a)=(9a)*(10a)	Increased Claims Handling Costs Discounted to 9/1/2008		$ 1,002,760	$ 1,026,298	$ 1,107,035

Notes:
Table covers the damages associated with accidents that happened on or after 7/1/2007. The majority of those damages are related to policies effective on or after 3
but 32% of the accident year ending June 2008 is associated with policies effective prior to 3/13/2007 ("Retrospective")
Scenario: ATF Price based on Present Value of 7 Year Annuity at Discount Rate = 5%
% of Claims that would have settled that no longer do= 30%
(1a) = (4) from TABLE 7
(2a)= (6) from TABLE 7
(3a)=(9) from TABLE 7
(4a)= (10) from TABLE 7
(5a) = estimated fee ATF will charge for taking over Claims handling. Based on discussion with Claims and fee they had seen historically charged on ATF claims
(7a) = Offset per claim based on estimated savings to Liberty Mutual from no longer cutting biweekly checks to claimants
and no longer reviewing indemnity portion of claim and authorizing release of payments
(10a) = Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns for acc yr ending June 2007

Table 9

TABLE 9
New York Aggregate Trust Fund
Calculation of Lost Investment Earnings Caused by Prospective Application

		Baseline	12 Mths Ending June 2008	12 Mths Ending June 2009	12 Mths Ending June 2010
(1b)	Non Schedule PPD Cnts subject to ATF	439			
(2b)	Average Annual Comp Rate	$ 15,600	$ 17,940	$ 19,196	$ 20,540
(3b)	Years of Benefits		7	7	7
(4b)	Net Present Value at ATF Price using Disc Rate =	5.00%	$ 103,808	$ 111,074	$ 118,849
(5b)	Net Present Value at ATF Price using Disc Rate =	5.46%	$ 102,099	$ 109,246	$ 116,893
(6b)=(4b)-(5b)	Reduced Investment Earnings Per Claim		$ 1,709	$ 1,828	$ 1,956
(7b)=(1b)*(6b)	Reduced Investment Earnings		$ 750,069	$ 802,574	$ 858,754
(8b)	Acc Yr Discount Factor to 9/1/08 using disc rate =5.46%	0.877	0.831	0.788	0.748
(9b)=(7b)*(8b)	Reduced Investment Earnings Discounted to 9/1/2008		$ 623,680	$ 632,787	$ 642,027

Notes:
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(1b) = (4) from TABLE 7
(2b)= (7) from TABLE 7
(3b)= (9) from TABLE 7
(4b) and (5b) = Net Present Value based on Avearge Annual Comp Rate, Years of Benefits, and Discount Rate
(5b) = Discount rate based on benchmark new money rate for Liberty at 6/30/2008
(8b) = Discount Factor based on 5.46% interest rate and Liberty Mutual claim emergence patterns for acc yr ending June 2007